

§ 1400.103

5 CFR Ch. IV (1–1–16 Edition)

material adverse effect on the national security;

(F) Exercising investigative or adjudicative duties related to national security, suitability, fitness or identity credentialing, where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security;

(G) Exercising duties related to criminal justice, public safety or law enforcement, where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security; or

(H) Conducting investigations or audits related to the functions described in paragraphs (a)(4)(ii)(B) through (G) of this section, where the occupant's neglect, action, or inaction could bring about a material adverse effect on the national security.

(b) The requirements of this part apply to positions in the competitive service, positions in the excepted service where the incumbent can be non-competitively converted to the competitive service, and Senior Executive Service (SES) positions held by career appointees in the SES within the executive branch. Departments and agencies may apply the requirements of this part to other excepted service positions within the executive branch and contractor positions, to the extent consistent with law.

§ 1400.103 Implementation.

OPM and the Security Executive Agent designated pursuant to Executive Order 13467 or any successor order may set forth policies, general procedures, criteria, standards, quality control procedures, and supplementary guidance for the implementation of this part.

Subpart B—Designation and Investigative Requirements

§ 1400.201 Sensitivity level designations and investigative requirements.

(a) For purposes of this part, the head of each agency must designate, or cause to be designated, a position within the department or agency as a national security position pursuant to § 1400.102(a). National security positions

must then be designated, based on the degree of potential damage to the national security, at one of the following three sensitivity levels:

(1) Noncritical-Sensitive positions are national security positions which have the potential to cause significant or serious damage to the national security, including but not limited to:

(i) Positions requiring eligibility for access to Secret, Confidential, or “L” classified information; or

(ii) Positions not requiring eligibility for access to classified information, but having the potential to cause significant or serious damage to the national security.

(2) Critical-Sensitive positions are national security positions which have the potential to cause exceptionally grave damage to the national security, including but not limited to:

(i) Positions requiring eligibility for access to Top Secret or “Q” classified information;

(ii) Positions not requiring eligibility for access to classified information, but having the potential to cause exceptionally grave damage to the national security;

(iii) Positions involving development or approval of war plans, major or special military operations, or critical and extremely important items of war;

(iv) National security policy-making or policy-determining positions;

(v) Positions with investigative duties, including handling of completed counterintelligence or background investigations, the nature of which have the potential to cause exceptionally grave damage to the national security;

(vi) Positions involving national security adjudicative determinations or granting of personnel security clearance eligibility;

(vii) Positions involving duty on personnel security boards;

(viii) Senior management positions in key programs, the compromise of which could result in exceptionally grave damage to the national security;

(ix) Positions having direct involvement with diplomatic relations and negotiations;

(x) Positions involving independent responsibility for planning or approving continuity of Government operations;